Preserve

App. F. IX-4

Previous References

1931.
(Mysore)

File No. 135-31
Serial Nos. 1-2

Later References

General and Revenue Secretariat.

Serial Nos.

Part B for December 31.

SUBJECT.

Appeal re leasing of certain lands of
Attavanattha Mahalingaswamy Devasthanam

To J. M. Morrish Esq
I.C.S. Station Bangalore
No. 5779-35, 24-12-31
Copy of the appeal is time-barred

General and Revenue Secretariat | Mg3 | File No. 135 of 1931.

Serial No.

Petition of 4.12.31 filed by Mr. O. S. N. Sheriff Advocate C/o Station Bangalore on behalf of his client Syed Sahib S. M. V. Shuttari Sahib Sajjada Nisheen Attawalla Shah Dargah Mahan-e-Kalan Near Lal Bagh Bangalore City Appealing against the order of the Mysore Commissioner in the matter of leasing out S. No 70 of Marali Bangalore belonging to the Dargah for a long period of ~~150~~ 20 years.

1) The appeal petn is insufficiently Stamped & Copy of the M-C's Order is enclosed. The decision of the M-C is dated 13th Sept. 1930.

2) ~~Though~~ The appeal preferred is time-barred by one year and three months & whether it may therefore be rejected is for orders.

4724 12/12

(5) Is this Correct? Mg

(3) VS 11.12.31

H. Lacey 2nd member (4) 12/12

VS

(6) May be rejected as time barred

Mg

11/12/31

VS

Respectfully submd.

It is ascertained that the date of the M-C's decision is 13.9.30 & the appl. is time-barred.

NOTE—Contn Sheet.

WD 70—GBPM—60,000—13-8-31

Misc. File No. 135 of 193 /.

General and Revenue Secretariat

Off as directed in Memo Order

18 Nil
21/12

Issue

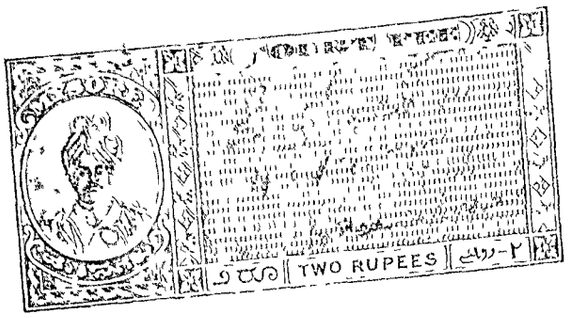
21.12.31

No 879 & 24-12-1931 to The Advocate for Mazanath S. M. V. Shullavi Sahebs Sajjada Nasheen Attaulla Shah Sahebs Dargah Mohalla Langar Lal-bagh Bangalore City inviting that the annual petition is rejected.

No 880 & 24.12.1931 to the Mizrai Commissioner forwarding for information Copy of the above letter.

B
4/1/32

GENL. & REV. SECTN. 587 4 - DEC. 1931 MUZRAI.



BEFORE THE GOVERNMENT OF H. H. THE MAHARAJA OF MYSORE

At BANGALORE.

Muzrai ~~Mis. Revision~~ appl Petition No. 11 of 1931-32.

Hazrath S.M.V. Shuttari Saheb,
Sajjada Nisheen, Attawalla
Shah Saheb Darga, 'Makan-e-
kalan, near Lal Bagh,
Bangalore City.

Petitioner

Appellant.

Vs.

Chennarayappa,
Hindu, Agriculturist,
Survey No.41, Mavalli
Village, near Lal Bagh,
Bangalore City.

Opponent

Respondent.

Under Sec.22 read with Sec.14 of the Mysore Muzrai Regulation, the petitioner above-named begs to prefer this Revision Petition against the order of the Learned Muzrai Commissioner in Muzrai Appeal No.41 of 29-30 on the following amongst other grounds:-

1. That the Learned Muzrai Commissioner having found the decision of Mr.S. Hiriyanniah incorrect ought to have passed an order restoring the lands to the Darga.

2. That the Learned Muzrai Commissioner having disagreed with the findings of the Lower Court as regards alleged long possession and tenant's right to claim permanent right of

occupancy of lands pertaining to Muzrai Institutions, ought to have passed orders in terms of the prayer set out in the Petitioner's appeal.

3. That the Learned Muzrai Commissioner's order directing the Deputy Commissioner to fix a suitable rent for a long period is against the Standing Orders passed by the Government of H.H. the Maharaja of Mysore in this behalf.

4. That the Learned Muzrai Commissioner ought to have been guided by considerations of benefit for the Darga Institution in disposing off the appeal and not directed that the tenant be allowed to remain in occupation of Sur. No.41, Mavalli Village for the long period of 15 years in the event of the opponent consenting to pay a suitable rent to be fixed by the Deupty Commissioner.

5. That the Learned Muzrai Commissioner further failed to take into his consideration the fact that the Government considers the practice of leasing lands belonging to Muzrai Institutions for long periods objectionable as highly prejudicial to such Institutions. The Government has specifically directed that this practice should b put a stop to at once and no lease should ordinarily be granted for more than 5 years at a time (Vide Government Order No.517-25, Muz.115-16-8, dated 29--8--1917). This order having been give effect to in several cases, ought to have been followed in the present case also.

That the Learned Sub-Divisional Officer was misled by the production of a patta by the opponent into the belief that it referred to the land in dispute (Sur. No.41, Mavalli Village) whereas it really related to Sur. No.40 of the same village. The findings of long possession are based upon this mistake and the Higher Courts have failed to discover this mistake which is the basis for the erroneous decision arrived at by the Sub-Divisional Officer which, in turn, influenced the Higher Courts in arriving at wrong conclusions.

7. The occupation of the land by the opponent following the death of his brother is recent, wrongful and illegal. It is highly prejudicial to the true interests of the Dargo.

8. That the Learned Muzrai Commissioner ought to have seen that there are offers of rental of Rs.100/- for the land whereas the present occupant enjoys the use of land for an annual rent of Rs.14. Further the land being situated between the Makkan and the High Road, the opponent's cattle are a perpetual source of annoyance and nuisance to the people and productive of insanitary conditions in the locality.

9. In these circumstances and in the interests of the Darga and in order that the Institution may not be put to continued loss and irreparable injury, the Petitioner humbly prays that the benign Government of H.H. the Maharaja of Mysore be pleased to direct the removal of the opponent who is a mere trespasser and restore the valuable lands to the Darga.

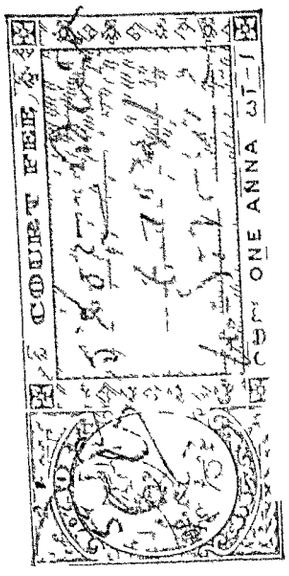
O G Sheriff

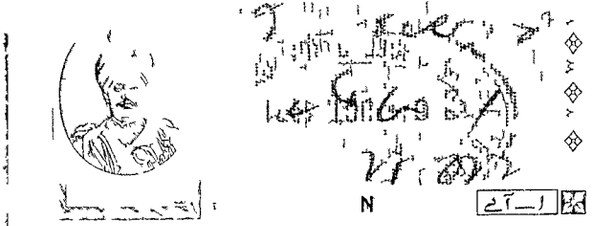
Advocate for the Petitioner.

O G Sheriff
Advocate for the Petitioner.

Bangalore,
23rd Nov. 1931.

23-12-31

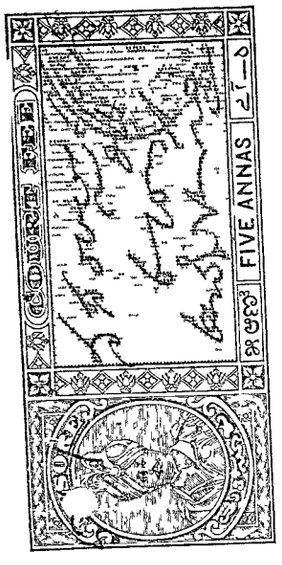




Order of the Mysore Commissioner in Appeal

Respondents
(1) Lakshmakka
(2) Chennaroyappa
both residing near Lalbagh Bangalore City

Appellants
Nazarath Syed Gulam Ali Shattari of Attavallasha Dargha near Lalbagh Bangalore City



Subject

Appeal against the orders of the Deputy Commissioner Bangalore District confirming the orders of the Sub Division Officer refusing to evict the tenants of S.No 41 of Kavalli village endowed to the Attavulla Sha Dargha near Lalbagh.

Facts of the case

Attavulla Sha Dargha is a Mussai Institution and the land S.No. 41 of Kavalli village is endowed for its support. The manager of the Dargha filed a petition before the Sub Division Officer against Hunigamma & others who were the tenants of the said land and the house thereon on payment of an annual rent of Rs 14/- praying for the restoration of the land to the dargha as the tenants refused to pay the rent and also fraudulently claimed their title in the property. The Sub Division Officer refused to grant the request of the petitioner to evict the opponents and directed that any amount, if due to the institution, should be paid up in full by the opponents.

In appeal against the Sub-Division Officer's order Mr. S. Hunigamiah

the then Deputy Commissioner ordered that as the opponents are willing to continue to pay Rs 14/- per annum to the Dargah it would be inequitable to evict them as desired by the appellant.

Against this order of the Deputy Commissioner an appeal was filed in this office. In this office order No. D Dis 129/27-28 dated 30th December 1927 it was ordered that the respondents possession of the land could not be disturbed until a report from the Deputy Commissioner is received as to what the annual income of the institution is, how it is utilized, whether any scale of expenditure is fixed and whether the manager renders proper accounts of the income.

The Deputy Commissioner reports that the position of the Sajjad of the institution is analogous to a Swamy of a Hindu Matha and it is not the policy of the Government to interfere with the internal affairs of such institutions and recommends that the land may be resumed and restored to the institution in question under section 30 of the Religious and Charitable Endowments regulations

Order No. Appeal 41/29-30
Dated Bangalore 13th Sept 1929

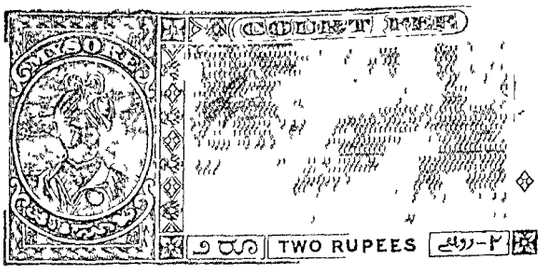
I was prepared to show some consideration to the institution if the Sajjada was prepared to keep accounts and submit them to the proper authorities to show that the amount was utilized for the benefit of the institution. The

Deputy Commissioner
position of the Sajjada and the previous
practice are such that Government
are not entitled to call for such
accounts and that if this is insisted
upon it will cause much discontent
as depriving heads of important insti
-tutions of a principle privilege. The
Deputy Commissioner (Mr Syed Taj
Pasha) is himself a muslim of dis
-tinction very learned in such usage
and belonging to the priestly class him
-self. I must give great deference to
such opinion. Mr. Thiriamiah's order
however is not quite consistent. It pre-
sumes that the land is Devadaya land
but interference in the Muzrai side
is refused on the ground that the
respondents have been long in possession
and that it is not desirable to disturb
persons who have been long in possession
and paying the rent. He also doubts
whether the tenants can claim perma
-nent right. On these findings I do
not consider his decision correct.
If the tenants are not prepared to
pay a reasonable rent they should
be evicted.

The Deputy Commissioner is re- SL
quested to fix a suitable rent say for
a long period 15 or 20 years and if the
tenants are not agreeable to pay the
same they should be evicted.

Sd/ P. G. D'Souza
Muzrai Commissioner

Copy applied for by Mr Syed Gulam Ali
on 30.9.31
Copy ready on 5-10-31
Copy delivered on 6.10.31
No. of words 620.
Copying fees 0-14-0
Comparing fees 0-2-4
Total 1-0-4
Copied by S. Jayaramadas
Compared by Ramakotarama
"Certified Copy"
O.S. Venkatapathi
Manager
Mss: Com's Office



BEFORE
~~In the Court of~~ the GOVERNMENT OF H. H. THE MAHARAJA
OF MYSORE, AT BANGALORE.

Muz. Mis. Revision Suit No. of 1931-1932

~~Plaintiff/Appellant~~ ~~Defendant/Respondent.~~

Petitioner/~~Complainant~~ Appellant *Counter Petitioner/~~Accused~~ Respondent*

Hazarath S.M.V. Shuttari Saheb, Sajjada Nisheen, Attawalla Shah Saheb Darga, 'Makan-e-kalan' near Lal Bagh, Bangalore City.

Vs.

Chennarayappa, Hindu, Agriculturist, Survey No. 41, Mavalli Village, near Lal Bagh. Bangalore City.

I, the Petitioner (Appellant) above-named do hereby appoint and retain Mr. O. S. N SHERIFF, M.A., (Litt) LL.B., Advocate to appear for me in the above suit / original / miscellaneous petition and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application for execution of any decree or order passed therein. I empower my Advocate to appear in all miscellaneous proceedings in the above suit or matter till all decrees or orders are fully satisfied or adjusted and to obtain the return of documents and draw any money that might be payable to me in the said suit or matter.

The address for service of the said Advocate is No. 149, Commercial Street C. & M. Station, Bangalore.

(1) Syed Md. Vajihuddin Sh

Personally known to me and signed in my presence.

Accepted.

O. S. Sheriff

ADVOCATE,
Bangalore

Dated, 31.11.1931

O. S. Sheriff

Municipal Councillor,
Bangalore City
and
Advocate, Bangalore

BEFORE
In the Court of the GOVERNMENT OF .....

H.H. THE MAHARAJA OF MYSORE
.....

At BANGALORE.

Mac. Mis. Revision Suit No. of 193 1-193 2.

Hosrath S.V.V.Chuttari Saheb. Plaintiff Appellant

Petitioner/Complainant

Vs

Chennarayappa. Defendant Respondent

Counter-Petitioner/Accused

MEMO.

VAKALATANAMA.

Filed on.... 4th Nov..... 1931

For the Petitioner (Appellant)

O. S. N. SHERIFF, M.A., (Litt) LL.B.,
Municipal Councillor, Bangalore City,
and
Advocate Bangalore.

BEFORE THE GOVERNMENT OF H. H. THE MAHARAJA OF MYSORE AT BANGALORE.

Muz. Mis. Revision Petn. No. of 1931-3

Hazarath S.M.V. Shuttari Saheb. — Petitioner / Appellant.

Vs.

Chennarayappa, — Opponent / Respondent.

M E M O.

1. Revision Petition.
2. Order Copy in original.
3. A Vakalathnama.

Filed on 14th ~~November~~ December 1931.

For the Petitioner.

O.S. NASRULLA SHERIFF ESQ.,
M.A., (Litt.) LL.B.,
Advocate & Municipal
Councillor,
BANGALORE.

G. R. S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Appellant.

Hazarath Syed Gulam Ali Shuttari of Atta-Ulla-Shah Dargah near Lalbagh Bangalore city.

Respondents.

(1) Lakshmanakka.

(2) Channamajappa both residing near Lalbagh Bangalore city.

Subject:— Appeal against the order of the D.C. Bangalore confirming the order of the A.D.O refusing the eviction of the tenants from S.N.O 41 of the Marali Village owned by the Atta-Ulla Shah Dargah near Lalbagh

Dear Mr Venkata pathanga Rao,

As seen from the City applicant's petition the appellant, the Deputy Commissioner is as follows:

Order No Appeal 41/2 By 13.9.1930.

N B -Shouldroutine notes be written on small slips
2the notes must be copied, or slips pasted on this form

G R S. III—3]

ROUTINE NO.....

[To be used only for notes, requisitions, etc, not intended for permanent record]

Kindly let me know of the date of the decision is 13.9.1930. The appeal is pretty now after the lapse of nearly 1 year 3 months I am regd to know whether the date of note above is Correct —

Yours sincerely
G. Muniswamy
17/12/31

Dear Mr. McKenna.

The date of the decision in AA.41/9-30. is 13-9-1930. I see from the record that endorsement have been issued to both the Appellant & Respondents in the case.

Yours sincerely
D. Narasimha Raju
Manager
17/12/31

Should routine notes be written on small slips the notes must be copied or slips pasted on this form

W D 1886—C J B—1 e0 000—2 5 31

Misc 135-31-2

23-12-1931.

24th

G.S.M. Sheriff, Esq., M.A., B.L.,
Advocate, No.143, Commercial Street,
Cantonment, Bangalore.

I am directed to inform you that the petition dated 4th December 1931 presented on behalf of your client Hazrath [illegible] Shattari Sahee, Sajjada Nisheen, Att Wallo Sahib Dargah Burra, Ulsoor, near Halasuru, Bangalore City appealing against the decision of the Municipal Commissioner in Muz. Appeal 41 of 23-6 on the file of the Court about the eviction of the tenants of C. No.41 of [illegible] Village, Bangalore Taluk endosed to the Surgeon is rejected as it is time-barred.

I have the honour to be,

Sir,

Your most obedient servant,

Sd. B.Srinivasa Iyengar

for Principal Secretary to Govt.

Memo No. 580

Dated, Bangalore, 23rd December 1931.

Copy of the above is forwarded with compliments, to the Municipal Commissioner in Mysore, for information.

By Order,

V Subrahmanyasastri

for Principal Secretary to Govt.

Misc.3.

Appendix F G—1]

SUBJECT .....

.....

.....

Section

File No

Serial No

Diary No. of letter replied to ..... No

To

General and Revenue Secretariat

( )

the *193* .

Date of issue .....

Signed by .....

List of enclosures .....

Copied by .....

Examined by .....

about the eviction of the tenants of S. No 41
of Manakal Village (Bangalore TK) summoned by the Bailiff.
is rejected as it is time-barred.

Dated etc

21.12.31

Dr Lee wants
Flower

Memo 880 of dt. 12.31.
Copy of the above is forwarded to
Complainants Advocate for information
& c.

21.12.31

Dr Lee for Collector
Flower

4-8
Illegible